

DON and MARY L. CLARK

IBLA 80-447

Decided July 15, 1980

Appeal from decision of the Nevada State Office, Bureau of Land Management, declaring mining claims abandoned and void. NMC 13004 through 13009.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim – Mining Claims: Abandonment

The owner of an unpatented mining claim located on Federal lands excluding lands within a unit of the National Park System, but including lands within a national monument administered by the United States Fish and Wildlife Service or the United States Forest Service, after Oct. 21, 1976, shall, on or before Dec. 30 of each calendar year following the calendar year in which such claim was located, file in the proper BLM office evidence of annual assessment work performed during the previous assessment year or a notice of intention to hold the mining claim. Where the claimant does not do so, the claims are deemed abandoned and properly declared void.

2. Notice: Generally – Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of statutes and duly promulgated regulations.

APPEARANCES: Don and Mary L. Clark, pro sese.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Don and Mary L. Clark appeal from a decision of the Nevada State Office, Bureau of Land Management (BLM), dated February 19, 1980, declaring mining claims Springview I through VI, N MC 13004 through 13009, void for failure to file evidence of annual assessment work or notice of intention to hold the claim as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2-1.

[1, 2, 3] Appellants located the Springview claims on September 23, 1977. Section 314(a) of FLPMA requires that "[t]he owner of an unpatented lode or placer mining claim located after October 21, 1976, shall, prior to December 31 of each year following the calendar year in which the said claim was located, file * * * either a notice of intention to hold the mining claim * * * [or] an affidavit of assessment work performed thereon." [Emphasis added.] The applicable regulation, 43 CFR 3833.2-1(c), expresses the same requirement specifying that the filings must be "on or before December 30" of each calendar year. Therefore, appellants were required to file the appropriate documents on or before December 30, 1979, which they did not do.

Appellants state in their letter of appeal that, had they been aware of the regulation which required a yearly filing of a notice of assessment work with BLM, they would have complied.

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); M. E. Rogers, 47 IBLA 196 (1980); Willene Minnier, 45 IBLA 1 (1980); Donald H. Little, 37 IBLA 1 (1978). There is no authority provided by FLPMA for excusing or waiving late filings.

As we have stated, filings for the Springview claims were required on or before December 30, 1979. Failure to file the appropriate instruments timely constitutes an abandonment of the mining claims. 43 U.S.C. § 1744(c) (1976); 43 CFR 3833.4. BLM correctly declared the Springview I through VI mining claims abandoned and void.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Joan B. Thompson
Administrative Judge

We concur.

Joseph W. Goss
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

